

CITY OF TOQUERVILLE

RES.2007.08

A RESOLUTION OPPOSING THE PROPOSED EXPANSION OF THE SERVICE AREA AND REORGANIZATION OF THE ADMINISTRATIVE CONTROL BOARD OF THE ASH CREEK SPECIAL SERVICE DISTRICT

RECITALS

WHEREAS, The Ash Creek Special Service District (“Ash Creek” or the “District”) was formed in 1979 by the Washington County Commission to develop, operate and manage a wastewater (sewer) collection and disposal system (“Sewer System”) for the municipalities of Toquerville, Hurricane and LaVerkin; and

WHEREAS, For approximately 28 years, the affairs of Ash Creek have been governed by its administrative control board of the District made up of 6 members, 2 from each of the City Councils of Hurricane, LaVerkin and Toquerville (“Ash Creek Board”), with little or no input from Washington County (“County”) and no monetary support from the County; and

WHEREAS, Under the direction of the Ash Creek Board, the District has planned for and developed the Sewer System to efficiently and cost effectively provide sewer collection and disposal services to the municipalities of Toquerville, Hurricane and LaVerkin, both presently and in the future; and

WHEREAS, Over the years the District has acquired numerous resources and assets, including infrastructure, equipment, real property and cash reserves through the assessment and collection of impact fees and user fees.

WHEREAS, As a public utility and political subdivision of the State of Utah, Ash Creek has essentially collected, held and utilized its assets in trust for the best interests of the residents of the three municipalities that it serves.

WHEREAS, The County, by and through the County Commission and without any genuine input from the District itself or Toquerville, Hurricane and LaVerkin, has commenced the legal process of expanding Ash Creeks service areas by annexing all of the unincorporated areas of Washington County into the District and has indicated that it intends to reorganize the Ash Creek Board by divesting each of the three municipalities of one representative and replacing them with a member of the Washington County Commission and one or more persons residing in the unincorporated areas of Washington County; and

WHEREAS, Toquerville, by and through its governing body, generally finds that the inclusion of areas far removed from the boundaries of Toquerville, Hurricane and LaVerkin into the service area of the District, and diluting said cities’ representation on the Ash Creek Board is not in the best interests of the health, safety and general welfare residents of Toquerville, Hurricane and LaVerkin; and

WHEREAS, Toquerville, by and through its governing body, specifically finds that the County's actions are an attempt to usurp authority and assets from the District in an effort to solve sewer problems elsewhere in the County, without the hardship and expense of developing a separate Special Service District for those areas of the County; and

WHEREAS, Toquerville, by and through its governing body, specifically finds that the County's actions will subject the Ash Creek and its assets to the influence and expenditure by forces and interests, and in areas, outside of the municipalities of Toquerville, Hurricane & LaVerkin where those assets were generated and collected and where the District and said Cities represented they would be used; and

WHEREAS, Toquerville, by and through its governing body, specifically finds that the County's actions will greatly reduce the efficiency and effectiveness of the District and subject it to public scrutiny and disdain by spreading the District's resources to thin (from both a budgetary and geographical standpoint) thus creating inadequate supervision situations and response times in maintenance and repair situations; and

WHEREAS, Toquerville, by and through its governing body, specifically finds that the County's actions may create situations where impact fees are utilized in violation of the Utah Impact Fee Act and the District's Capital Facilities Plan that was prepared and adopted to meet the needs of the three cities which currently make up Ash Creek and which would have little or no application to sewer collection and disposal needs of the other portions of the County; and

WHEREAS, Toquerville, by and through its governing body, specifically finds that the County's actions are in violation of the Utah Special Service District Act, in that the County either expressly, or tacitly through its utter lack of control and supervision over the past 28 years, has delegated its governing authority to the Ash Creek Board thus it has no authority to now exercise any control over the District, its service areas and its assets; and

WHEREAS, Toquerville, by and through its governing body, specifically finds that the County's actions are in violation of the Utah Special Service District Act, in that the County has failed to obtain consent to their proposed action from the cities of Toquerville, Hurricane and LaVerkin.

RESOLUTION

SECTION I: RESOLUTION

NOW THEREFORE, be it resolved that:

1. Declaration of Opposition. The City of Toquerville hereby deems and declares the County's actions to expand Ash Creek's service area to encompass all of the County that is unincorporated or who does not have a sewer system and to dilute the Ash Creek Board as detrimental and contrary to the best interests of the City and its residents, guests, and businesses. Accordingly, the City of Toquerville, voices strong opposition to the intended expansion and dilution and respectfully requests that the County reevaluate its actions.

2. Invitation of Cooperation. The City of Toquerville hereby invites the County to cooperate and voluntarily terminate its current course of action and, instead, create one or more